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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,458	07/05/2001	Patrick Justin Laffey	AUS9-2001-0343-US1	3411

7590 02/05/2004

Volel Emile  
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Austin, TX 78758

EXAMINER
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TRAN, MYLINH T

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 02/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

09/899,458

Applicant(s)

LAFHEY ET AL.

Examiner

Mylinh T Tran

Art Unit

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-- The MAILING DATE f this communication appears on the cover sheet with the corresp ndenc address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickover et al. [US. 5,740,390] in view of Fleck [US. 6,160,539].

As to claims 1, 5, 7, 11, 13, 17, 19, 21 and 23, Pickover et al. discloses user controlled means for moving an on-screen pointer to approach said selectable items (column 1, lines 53-65); means for setting a predetermined minimum clearance factor required for user selection of an item by said pointer (column 1, line 65 through column 2, line 43); means for determining whether a selectable item being approached by said pointer has said minimum clearance factor (column 5, line 49 through column 6, line 14); means for determining whether a selectable icon being approached by said pointer is within said minimum clearance distance from said pointer (column 7, lines 1-35); means for determining whether said approached icon has said minimum clearance distance from its adjacent icons (column 5, line 48 through column 6, line 14). The difference between the claim and Pickover et al. is means responsive to a determination that said approached item does not have said minimum clearance factor for reducing the size of said pointer. Fleck shows the feature at column 1, lines 40-67, column 3, lines 25-50 and column 5, lines 10-30, by citing "adjusting the cursor shape being portrayed on display when the pointer is

moved in the menu area from one menu item to another menu item so that the user can determine which menu item the pointer is over without having to look at the tablet surface). It would have been obvious to one of ordinary skill in the art, having the teachings of Pickover et al. and Fleck before him at the time the invention was made to modify the plurality of adjacent icons with a predetermined distance taught by Pickover et al. to include the method of reducing the size of the cursor of the Fleck system, in order to a user to select a desire icon as taught by Fleck.

As to claims 2, 8, 12, Pickover et al. also discloses the items being icons (column 1, line 53 through column 2, line 12).

As to claims 3, 9, 15, Pickover et al. teaches the reduced size pointer has a reduced minimum clearance factor (column 6, line 34 through column 7, line 3).

As to claims 4, 10, 16, Pickover et al. also teaches the minimum clearance factor is defined by: Minimum Clearance =  $d + s$  wherein:  $d$  is the widest visible dimension of the approached icon (column 3, lines 12-35), and  $s$  is the space between the approached icon and the closest adjacent icon in a continuation of the  $d$  dimension line (column 5, line 48 through column 6, line 14).

As to claims 6, 12, 18, Fleck provides reduced size pointer has a reduced minimum clearance distance whereby said approached icon does have said minimum clearance distance from adjacent icons (column 5, lines 10-30, "The user need not look down at the tablet because the cursor shape on the display indicates to the user what menu item the pointer is positioned over for selection").

As to claims 20, 22 and 24, Pickover et al. teaches each item is activated for selection when said dimensions are enlarged (column 5, line 48 through column 6, line 14).

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### ***Conclusion***

Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires fax a response, (703) 746-7238), may be used for formal After Final communications, (703) 746-7239 for Official communications, or (703) 746-7240 for Non-Official or draft communications.

NOTE, A Request for Continuation (Rule 60 or 62) cannot be faxed.

Please label "PROPOSED" or "DRAFT" for information facsimile communications. For after final responses, please label "AFTER FINAL" or "EXPEDITED PROCEDURE" on the document.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Fourth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran whose telephone number is (703) 308-1304. The examiner can normally be reached on Monday-Friday from 8.00AM to 4.30PM

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640,

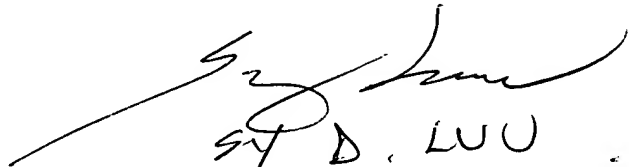
All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.

Mylinh Tran

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SY D. LUU  
PRIMARY EXAMINER